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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 CLAYTON P. ZELLMER, on behalf of) Case No. _____
himself and all others similarly situated,)
Plaintiff,) Class Action
vs.)
FACEBOOK, INC.,) **Class Action Complaint for Violation
of the Illinois Biometric Information
Privacy Act**
Defendant.)) **Demand for Jury Trial**

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1 Plaintiff Clayton P. Zellmer (“Plaintiff” or “Plaintiff Zellmer”), individually and on
 2 behalf of all others similarly situated, brings this class action against defendant
 3 Facebook, Inc. (“Facebook”), alleging violations of the Illinois Biometric Information
 4 Privacy Act (“BIPA”), 740 ILCS 14/1 *et seq.* Plaintiff makes these allegations based on
 5 personal knowledge as to himself, on the investigation of his counsel and the advice and
 6 consultation of certain third-party agents as to technical matters, and on information
 7 and belief as to all other matters. Plaintiff believes that substantial additional
 8 evidentiary support will exist for the allegations set forth below after a reasonable
 9 opportunity for discovery. Plaintiff demands a trial by jury.

10 **NATURE OF THE ACTION**

11 1. Plaintiff brings this action for damages and other legal and equitable
 12 remedies resulting from the illegal actions of Facebook in violating the BIPA by
 13 capturing, possessing, collecting, storing, receiving through trade, obtaining, and using
 14 the biometric identifiers¹ and biometric information² (referred to collectively at times as
 15 “biometrics”) of Plaintiff and other similarly situated individuals, without their informed
 16 written consent.

17 2. The Illinois Legislature has found that “[b]iometrics are unlike other
 18 unique identifiers that are used to access finances or other sensitive information.” 740
 19 ILCS 14/5(c). “For example, social security numbers, when compromised, can be
 20 changed. Biometrics, however, are biologically unique to the individual; therefore, once
 21 compromised, the individual has no recourse, is at heightened risk for identity theft, and
 22 is likely to withdraw from biometric-facilitated transactions.” *Id.*

23 3. In recognition of these concerns over the security of individuals’
 24 biometrics – particularly in the City of Chicago, which was recently selected by major

25 ¹ A “biometric identifier” is any personal feature that is unique to an individual,
 26 including fingerprints, iris scans, DNA and “face geometry,” among others.

27 ² “Biometric information” is any information captured, converted, stored or
 shared based on a person’s biometric identifier used to identify an individual.

1 national corporations as a “pilot testing site[] for new applications of biometric-
 2 facilitated financial transactions, including finger-scan technologies at grocery stores,
 3 gas stations, and school cafeterias,” 740 ILCS 14/5(b) — the Illinois Legislature enacted
 4 the BIPA, which provides, *inter alia*, that a private entity like Facebook may not obtain
 5 or possess an individual’s biometrics unless it: (i) informs that person in writing that
 6 biometric identifiers or information will be collected or stored, *see* 740 ILCS 14/15(b);
 7 (ii) informs that person in writing of the specific purpose and length of term for which
 8 such biometric identifiers or biometric information is being collected, stored and used,
 9 *see id.*; (iii) receives a written release from the person for the collection of his or her
 10 biometric identifiers or information, *see id.*; and (iv) publishes publically available
 11 written retention schedules and guidelines for permanently destroying biometric
 12 identifiers and biometric information, *see* 740 ILCS 14/15(a).

13 4. In direct violation of each of the foregoing provisions of Section 15(a) and
 14 Section 15(b) of the BIPA, Facebook is actively collecting, storing, and using — without
 15 providing notice, obtaining informed written consent, or publishing data retention
 16 policies — the biometrics of its users and unwitting non-users like Plaintiff.

17 5. Specifically, Facebook has created, collected and stored over a billion “face
 18 templates” (or “face prints”) — highly detailed geometric maps of the face — from over a
 19 billion individuals, millions of whom reside in the State of Illinois. Facebook creates
 20 these templates using sophisticated facial recognition technology that extracts and
 21 analyzes data from the points and contours of faces appearing in photos uploaded by
 22 their users. Each face template is unique to a particular individual, in the same way that
 23 a fingerprint or voiceprint uniquely identifies one and only one person.

24 6. At all times relevant, Facebook has stated publicly on its website that “[w]e
 25 are able to suggest that your friend tag you in a picture **by scanning** and comparing
 26 your friend’s pictures to information we’ve put together from the other photos you have
 27 been tagged in.” According to the same website, this process is performed by “**facial**

recognition software that uses an algorithm to calculate a unique number ('template') based on someone's facial features, like the distance between the eyes, nose and ears."³

7. Plaintiff, who has never had a Facebook account, brings this action individually and on behalf of all others similarly situated to prevent Facebook from further violating the privacy rights of Illinois residents, and to recover statutory damages for Facebook's unauthorized collection, storage and use of unwitting non-users' biometrics in violation of the BIPA.

PARTIES

8. Plaintiff Zellmer is, and has been at all relevant times, a resident and citizen of Illinois. Plaintiff Zellmer is not, and has never been, a Facebook user. Plaintiff Zellmer does not have, and has never had, a Facebook account.

9. With its over one billion users, Facebook operates the world's largest online social networking website. Facebook is a Delaware corporation with its headquarters and principal executive offices at 1601 Willow Road, Menlo Park, California 94025. Accordingly, Facebook is a citizen of the states of Delaware and California.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over this action pursuant to 740 ILCS 14/20 and the Class Action Fairness Act (28 U.S.C. § 1332(d)), because: (i) the proposed class of non-users of Facebook consist of well over 100 members; (ii) the parties are minimally diverse with respect to the proposed class, as the members of the proposed class, including Plaintiff, are citizens of a state different from Facebook's home states; and (iii) the aggregate amount in controversy with respect to the proposed class exceeds \$5,000,000.00, exclusive of interests and costs.

³ All emphases are added unless otherwise noted.

1 11. Facebook is subject to personal jurisdiction in California under California
2 Code of Civil Procedure § 410.10 because Facebook owns and operates a business that is
3 headquartered in California, and because it conducts substantial business throughout
4 California.

5 12. Venue is proper in this District because Facebook resides in this District
6 and is subject to personal jurisdiction in this District.

INTRADISTRICT ASSIGNMENT

8 13. Facebook maintains its principal executive offices in San Mateo County.
9 This action shall thus be assigned to the San Francisco Division or Oakland Division of
10 this District. Because a related case — *Gullen v. Facebook, Inc.*, No. 16-cv-0937-JD
11 (N.D. Cal.) — is pending in the San Francisco Division of this District, before the
12 Honorable James Donato, this action should be assigned to Judge Donato of the *San*
13 *Francisco Division.*

FACTUAL ALLEGATIONS

I. Biometric Technology Implicates Consumer Privacy Concerns

16 14. “Biometrics” refers to unique physical characteristics used to identify an
17 individual. One of the most prevalent uses of biometrics is in facial recognition
18 technology, which works by scanning an image for human faces, extracting facial feature
19 data based on specific “biometric identifiers” (*i.e.*, details about the face’s geometry as
20 determined by facial points and contours), and comparing the resulting “face template”
21 (or “faceprint”) against the face templates stored in a “face template database.” If a
22 database match is found, an individual may be identified.

23 15. The use of facial recognition technology in the commercial context
24 presents numerous consumer privacy concerns. During a 2012 hearing before the
25 United States Senate Subcommittee on Privacy, Technology, and the Law, then-Senator
26 Al Franken stated that “there is nothing inherently right or wrong with [facial
27 recognition technology, but] if we do not stop and carefully consider the way we use [it],

it may also be abused in ways that could threaten basic aspects of our privacy and civil liberties.”⁴ Senator Franken noted, for example, that facial recognition technology could be “abused to not only identify protesters at political events and rallies, but to target them for selective jailing and prosecution.”⁵

5 16. The Federal Trade Commission (“FTC”) has raised similar concerns, and
6 recently released a “Best Practices” guide for companies using facial recognition
7 technology.⁶ In the guide, the FTC underscores the importance of companies obtaining
8 affirmative consent from consumers before extracting and collecting their biometric
9 identifiers and biometric information from digital photographs.

10 17. As explained below, Facebook failed to obtain consent from unwitting
11 non-users when it introduced its facial recognition technology. Not only do the actions
12 of Facebook contravene the FTC guidelines, they also violate the statutory privacy rights
13 of Illinois residents.

14 II. The BIPA

15 18. In 2008, Illinois enacted the BIPA due to the “very serious need [for]
16 protections for the citizens of Illinois when it [comes to their] biometric information.”
17 Illinois House Transcript, 2008 Reg. Sess. No. 276. The BIPA makes it unlawful for a
18 company to, *inter alia*, “collect, capture, purchase, receive through trade, or otherwise
19 obtain a person’s or a customer’s biometric identifiers⁷ or biometric information, unless
20 it first:

²¹ ⁴ *What Facial Recognition Technology Means for Privacy and Civil Liberties: Hearing Before the Subcomm. on Privacy, Tech. & the Law of the S. Comm. on the Judiciary*, 112TH CONG. 1 (2012) (available at https://www.eff.org/files/filenode/jenniferlynch_eff-senate-testimony-face_recognition.pdf).

5 Id

²⁴ ²⁵ *⁶ Facing Facts: Best Practices for Common Uses of Facial Recognition Technologies*, FEDERAL TRADE COMMISSION (Oct. 2012) (available at <http://www.ftc.gov/sites/default/files/documents/reports/facing-facts-best-practices-common-uses-facial-recognition-technologies/121022facialtechrpt.pdf>).

⁷ The BIPA's definition of "biometric identifier" expressly includes information collected about the geometry of the face (*i.e.*, facial data obtained through facial recognition technology). See 740 ILCS 14/10.

1 (1) informs the subject ... in writing that a biometric identifier or biometric
2 information is being collected or stored;

3 (2) informs the subject ... in writing of the specific purpose and length of
4 term for which a biometric identifier or biometric information is being
5 collected, stored, and used; and

6 (3) receives a written release executed by the subject of the biometric
7 identifier or biometric information or the subject's legally authorized
8 representative.”

9 740 ILCS 14/15(b).

10 19. Section 15(a) of the BIPA also provides:

11 A private entity in possession of biometric identifiers or biometric
12 information must develop a written policy, made available to the public,
13 establishing a retention schedule and guidelines for permanently
14 destroying biometric identifiers and biometric information when the
15 initial purpose for collecting or obtaining such identifiers or information
16 has been satisfied or within 3 years of the individual’s last interaction with
17 the private entity, whichever occurs first.

18 740 ILCS 14/15(a).

19 20. As alleged below, Facebook’s practices of capturing, possessing, collecting,
21 storing, receiving through trade, obtaining, and using unwitting non-users’ biometric
22 identifiers and information without informed written consent violate all three prongs of
23 Section 15(b) of the BIPA. Facebook’s failure to provide a publicly available written
24 policy regarding its schedule and guidelines for the retention and permanent
25 destruction of non-users’ biometric information also constitutes a separate and
26 independent violation of Section 15(a) of the BIPA.

27 **III. Facebook Violates the BIPA**

28 21. Facebook users upload approximately 300 million photos per day, making
photographs a vital part of the Facebook experience.

29 22. Unbeknownst to the average consumer, and in direct violation of Section
30 15(b)(1) of the BIPA, Facebook’s proprietary facial recognition technology scans every
31 user-uploaded photo for faces, extracts geometric data relating to the unique points and
32 contours of each face, and then uses that data to create and store a template of each face
— all without ever directly informing anyone of this practice.

1 23. Facebook holds several patents covering its facial recognition technology
2 that detail its process of scanning photos for biometric identifiers and obtaining face
3 templates without obtaining informed written consent.

4 24. Facebook's scanning of face geometry works by comparing the face
5 templates of individuals who appear in newly-uploaded photos with the facial templates
6 already saved in Facebook's face database. Specifically, when a Facebook user uploads a
7 new photo, Facebook's sophisticated facial recognition technology creates a scan of a
8 face geometry template for each face depicted therein, without consideration for
9 whether a particular face belongs to a Facebook user or unwitting non-user, and then
10 compares each template against Facebook's face template database. If no match is
11 found, the user is prompted to identify by name the person whose face is depicted, at
12 which point the face template and corresponding name identification are saved in
13 Facebook's face database. However, if a face template is generated that matches a face
14 template already in Facebook's face database, then Facebook suggests that the user click
15 on the name that matches the name already associated with that face.

16 25. These unique biometric identifiers are not only collected and used by
17 Facebook to identify individuals by name, but also to recognize their gender, age, race
18 and location. Accordingly, Facebook also collects "biometric information" from non-
19 users. *See 740 ILCS 14/10.*

20 26. In direct violation of Section 15(b)(2) and Section 15(b)(3) of the BIPA,
21 Facebook never informed Illinois non-users, such as Plaintiff, who were tagged by
22 Facebook's users, of the specific purpose and length of term for which their biometric
23 identifiers or information would be collected, stored and used, nor did Facebook obtain
24 a written consent and release from any of these non-users as the statute expressly
25 requires.

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1 27. Also in direct violation of Section 15(a) of the BIPA, Facebook does not
2 have written, publicly available policies identifying its retention schedules or guidelines
3 for permanently destroying non-users' biometric identifiers or information.

4 **IV. Plaintiff Zellmer's Experience**

5 28. Plaintiff Zellmer does not have, and has never had, a Facebook account.
6 Plaintiff Zellmer has never used Facebook's services.

7 29. On or about March 3, 2013, a Facebook user residing in Illinois uploaded
8 to a personal account on Facebook, from a device assigned an Illinois-based IP address,
9 at least one photograph depicting Plaintiff Zellmer. Plaintiff Zellmer resided in Illinois
10 at the time the photograph was taken and uploaded to Facebook.

11 30. On or about April 15, 2014, a Facebook user residing in Illinois uploaded
12 to a personal account on Facebook, from a device assigned an Illinois-based IP address,
13 at least one photograph depicting Plaintiff Zellmer. Plaintiff Zellmer resided in Illinois
14 at the time the photograph was taken and uploaded to Facebook.

15 31. On or about September 7, 2014, a Facebook user residing in Illinois
16 uploaded to a personal account on Facebook, from a device assigned an Illinois-based IP
17 address, at least one photograph depicting Plaintiff Zellmer. Plaintiff Zellmer resided in
18 Illinois at the time the photograph was taken and uploaded to Facebook.

19 32. On or about November 28, 2015, a Facebook user residing in Illinois
20 uploaded to a personal account on Facebook, from a device assigned an Illinois-based IP
21 address, at least one photograph depicting Plaintiff Zellmer. Plaintiff Zellmer resided in
22 Illinois at the time the photograph was taken and uploaded to Facebook.

23 33. On or about January 19, 2016, a Facebook user residing in Illinois
24 uploaded to a personal account on Facebook, from a device assigned an Illinois-based IP
25 address, at least one photograph depicting Plaintiff Zellmer. Plaintiff Zellmer resided in
26 Illinois at the time the photograph was taken and uploaded to Facebook.

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1 34. Plaintiff is informed and believes, and thereupon alleges, that Facebook
2 users residing in Illinois have uploaded to personal pages on Facebook, from devices
3 assigned Illinois-based IP addresses, numerous additional photographs depicting
4 Plaintiff Zellmer over the past several years, and that such photographs were both taken
5 and uploaded to Facebook while Plaintiff Zellmer resided in Illinois.

6 35. Upon upload to Facebook of each of the aforementioned photographs of
7 Plaintiff Zellmer, Facebook automatically scanned and analyzed Plaintiff Zellmer's face,
8 extracted his biometric identifiers (such as geometric data relating to the unique
9 contours of his face geometry and the distances between his eyes, nose and ears), and
10 then used those biometric identifiers to create a digitized template of his face.

11 36. Facebook then prompted the Facebook users who uploaded these photos
12 to match a name to Plaintiff Zellmer’s face, at which point the user matched the name
13 “Clayton Zellmer” to Plaintiff Zellmer’s face in the photographs. Facebook violates the
14 statute with respect to Plaintiff Zellmer not solely by “prompting” users to match names
15 with faces, but by capturing, possessing, collecting, storing, receiving through trade,
16 obtaining or using Plaintiff Zellmer’s biometric identifiers.

17 37. The face template created from Plaintiff Zellmer's biometric identifiers
18 was also used by Facebook to recognize Plaintiff Zellmer's gender, age, race and
19 location.

20 38. Plaintiff Zellmer never consented, agreed or gave permission — written or
21 otherwise — to Facebook for the capturing, possessing, collecting, storing, receiving
22 through trade, obtaining, or using of the biometric identifiers or biometric information
23 associated with Plaintiff Zellmer’s face template.

24 39. Further, Facebook never provided Plaintiff Zellmer with nor did he ever
25 sign a written release allowing Facebook to capture, possess, collect, store, receive
26 through trade, obtain or use biometric identifiers or biometric information associated
27 with Plaintiff Zellmer's face template. Further, Facebook never provided Plaintiff

1 Zellmer's legally authorized representative with nor did Plaintiff Zellmer's legally
2 authorized representative ever sign a written release allowing Facebook to capture,
3 possess, collect, store, receive through trade, obtain or use biometric identifiers or
4 biometric information associated with Plaintiff Zellmer's face template.

5 40. Likewise, Facebook never provided Plaintiff Zellmer with an opportunity
6 to prohibit or prevent the capture, possession, collection, storage, receiving through
7 trade, obtaining, or use of the biometric identifiers associated with Plaintiff Zellmer's
8 face template.

9 41. Nevertheless, when Facebook users uploaded photos of Plaintiff Zellmer,
10 Facebook located Plaintiff Zellmer’s face in each such photo, scanned Plaintiff’s facial
11 geometry, and created a unique face template corresponding to Plaintiff Zellmer, all in
12 direct violation of the BIPA.

CLASS ALLEGATIONS

14 **42. Class Definition:** Plaintiff brings this action on behalf of a class of
15 similarly situated individuals, defined as follows (the “Class”):

16 All individuals who have never subscribed to Facebook.com or any
17 other Facebook, Inc. service and, while residing in Illinois, whose face was
18 depicted in a photograph uploaded to Facebook.com from a device
assigned an Illinois-based internet protocol address at any point in time
between August 31, 2010 and the present.

The following are excluded from the Class: (i) any Judge presiding over this action and members of his or her family; (ii) Facebook, Facebook's subsidiaries, parents, successors, predecessors, and any entity in which Facebook or its parent has a controlling interest (as well as current or former employees, officers and directors); (iii) persons who properly execute and file a timely request for exclusion from the Class; (iv) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (v) Plaintiff's counsel and Facebook's counsel; and (vi) the legal representatives, successors, and assigns of any such excluded persons.

43. **Numerosity:** The number of persons within the Class is substantial and
is believed to amount to thousands of people. It is, therefore, impractical to join each
Class Action Complaint; Demand for Jury Trial

1 member of the Class as a named Plaintiff. Further, the size and relatively modest value
2 of the claims of the individual members of the Class render joinder impractical.
3 Accordingly, utilization of the class action mechanism is the most economically feasible
4 means of determining and adjudicating the merits of this litigation.

5 **44. Commonality and Predominance:** There are well-defined common
6 questions of fact and law that exist as to all members of the Class and that predominate
7 over any questions affecting only individual members of the Class. These common legal
8 and factual questions, which do not vary from Class member to Class member, and
9 which may be determined without reference to the individual circumstances of any class
10 member include, but are not limited to, the following:

11 a. whether Facebook collected or otherwise obtained Plaintiff's and
12 the Class's biometric identifiers or biometric information through photos
13 uploaded to Facebook's site;

14 b. whether Facebook properly informed Plaintiff and the Class that it
15 collected, used, and stored their biometric identifiers or biometric information;

16 c. whether Facebook obtained a written release (as defined in 740
17 ILCS 14/10) to collect, use, and store Plaintiff's and the Class's biometrics
18 identifiers or biometric information;

19 d. whether Facebook developed a written policy, made available to the
20 public, establishing a retention schedule and guidelines for permanently
21 destroying biometric identifiers and biometrics information when the initial
22 purpose for collecting or obtaining such identifiers or information has been
23 satisfied or within 3 years of their last interaction, whichever occurs first;

24 e. whether Facebook used Plaintiff's and the Class's biometric
25 identifiers or biometric information to identify them; and

26 f. whether Facebook's violations of the BIPA were committed
27 intentionally, recklessly, or negligently.

1 45. **Adequate Representation:** Plaintiff has retained and is represented by
2 qualified and competent counsel who are highly experienced in complex consumer class
3 action litigation. Plaintiff and his counsel are committed to vigorously prosecuting this
4 class action. Neither Plaintiff nor his counsel has any interest adverse to, or in conflict
5 with, the interests of the absent members of the Class. Plaintiff is able to fairly and
6 adequately represent and protect the interests of such a Class. Plaintiff has raised viable
7 statutory claims of the type reasonably expected to be raised by members of the Class,
8 and will vigorously pursue those claims. If necessary, Plaintiff may seek leave of this
9 Court to amend this Class Action Complaint to include additional Class representatives
10 to represent the Class or additional claims as may be appropriate.

11 **46. Superiority:** A class action is superior to other available methods for the
12 fair and efficient adjudication of this controversy because individual litigation of the
13 claims of all Class members is impracticable. Even if every member of the Class could
14 afford to pursue individual litigation, the Court system could not. It would be unduly
15 burdensome to the courts in which individual litigation of numerous cases would
16 proceed. Individualized litigation would also present the potential for varying,
17 inconsistent or contradictory judgments, and would magnify the delay and expense to
18 all parties and to the court system resulting from multiple trials of the same factual
19 issues. By contrast, the maintenance of this action as a class action, with respect to some
20 or all of the issues presented herein, presents few management difficulties, conserves
21 the resources of the parties and of the court system and protects the rights of each
22 member of the Class. Plaintiff anticipates no difficulty in the management of this action
23 as a class action. Class wide relief is essential to compel compliance with the BIPA.

**SOLE CAUSE OF ACTION
Violation of 740 ILCS 14/1, et seq.
(On Behalf of Plaintiff and the Class)**

26 | 47. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

1 48. The BIPA makes it unlawful for any private entity to, among other things,
2 “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a
3 customer’s biometric identifiers or biometric information, unless it first: (1) informs the
4 subject ... in writing that a biometric identifier or biometric information is being
5 collected or stored; (2) informs the subject ... in writing of the specific purpose and
6 length of term for which a biometric identifier or biometric information is being
7 collected, stored, and used; and (3) receives a written release executed by the subject of
8 the biometric identifier or biometric information” 740 ILCS 14/15(b).

⁹ 49. Facebook is a “private entity” under the BIPA. See 740 ILCS 14/10.

10 50. Plaintiff and the Class members are individuals who had their “biometric
11 identifiers” collected and stored by Facebook’s facial recognition software (in the form of
12 their facial geometries extracted from uploaded digital photographs). *See id.*

13 51. Plaintiff and the Class members are individuals who had their “biometric
14 information” collected by Facebook (in the form of their gender, age, race and location)
15 through Facebook’s collection and use of their “biometric identifiers.”

52. Facebook systematically and automatically collected, used, and stored Plaintiff's and the Class members' biometric identifiers and/or biometric information without first obtaining the written release required by 740 ILCS 14/15(b)(3).

19 53. Facebook failed to properly inform Plaintiff and the Class in writing that
20 their biometric identifiers and/or biometric information was being collected, captured,
21 stored or otherwise obtained, nor did Facebook inform Plaintiff and the Class members
22 in writing of the specific purpose and length of term for which their biometric identifiers
23 and/or biometric information was being collected, stored, and used, as required by 740
24 ILCS 14/15(b)(1)-(2).

25 54. In addition, Facebook does not publicly provide a retention schedule or
26 guidelines for permanently destroying the biometric identifiers and/or biometric

1 information of Plaintiff and the Class members, as required by the BIPA. *See* 740 ILCS
2 14/15(a).

3 55. By collecting, storing, and using Plaintiff's and the Class's biometric
4 identifiers and biometric information as described herein, Facebook violated the right of
5 Plaintiff and each Class member to keep private these biometric identifiers and
6 biometric information and prevented Plaintiff and the Class from exercising their rights
7 to refuse Defendant access to their biometric data, as set forth in the BIPA, 740 ILCS
8 14/1, *et seq.* In this way, Facebook has harmed Plaintiff and Class members by invading
9 and violating Plaintiff's and Class members' rights to privacy.

10 56. On behalf of himself and the proposed Class members, Plaintiff seeks: (i)
11 injunctive and equitable relief as is necessary to protect the interests of Plaintiff and the
12 Class by requiring Facebook to comply with the BIPA's requirements for the collection,
13 storage, and use of biometric identifiers and biometric information as described herein;
14 (ii) statutory damages of \$5,000 for the intentional and reckless violation of the BIPA
15 pursuant to 740 ILCS 14/20(2), or alternatively, statutory damages of \$1,000 pursuant
16 to 740 ILCS 14/20(1) if the Court finds that Facebook's violations were negligent; and
17 (iii) reasonable attorneys' fees and costs and other litigation expenses pursuant to 740
18 ILCS 14/20(3).

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff Zellmer, on behalf of himself and the proposed Class,
21 respectfully requests that this Court enter an order and judgment:

22 A. Certifying this case as a class action on behalf of the Class defined above,
23 appointing Plaintiff as representative of the Class, and appointing Plaintiff's counsel as
24 Class Counsel;

25 B. Declaring that Facebook's actions, as set forth above, violate the BIPA, 740
26 ILCS 14/1, *et seq.*;

1 C. Awarding statutory damages of \$5,000 for each and every intentional and
2 reckless violation of the BIPA pursuant to 740 ILCS 14/20(2), or alternatively, statutory
3 damages of \$1,000 pursuant to 740 ILCS 14/20(1) if the Court finds that Facebook's
4 violations were negligent;

5 D. Awarding injunctive and other equitable relief as is necessary to protect
6 the interests of the Class, including, *inter alia*, an order requiring Facebook to collect,
7 store, and use biometric identifiers or biometric information in compliance with the
8 BIPA;

9 E. Awarding Plaintiff and the Class their reasonable litigation expenses and
10 attorneys' fees;

11 F. Awarding Plaintiff and the Class pre- and post-judgment interest, to the
12 extent allowable; and

13 || G. Awarding such other and further relief as equity and justice may require.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues so triable.

16 | Dated: March 27, 2018

Respectfully submitted,

BOTTINI & BOTTINI, INC.

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